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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,223	11/18/2003	Toshio Maruyama	0275M-605USA	4835
27572	7590	09/29/2004	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			STERLING, AMY JO	
			ART UNIT	PAPER NUMBER
			3632	
DATE MAILED: 09/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/716,223

Applicant(s)

MARUYAMA, TOSHIO

Examiner

Amy J. Sterling

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
5) ☒ Claim(s) 5-12 is/are allowed.
6) ☒ Claim(s) 13-17 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This is the first Office Action for application number 10/716,223, Pipe Holding Fastener, filed on 11/18/03. Claims 1-17 are pending.

Information Disclosure Statement

The information disclosure statement submitted on 11/18/04 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Election/Restrictions

Claims 1-4 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 8/5/4. The applicant has argued that although the species are distinct from each other, they would not cause a burdensome search. This is not persuasive the structural differences between the two distinct species would require searching for separate structures and is therefore burdensome.

Applicant's traverse on the ground that the species are not patentably distinct, should include evidence or identification of such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior

art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 cites that a “the stud engagement portion further comprises a pair of protrusions each operably to engage within a pair of apertures in the support section”. This limitation operably “connects the support section” and the stud “engagement portion”, which is contradictory with the limitation in claim 13, lines, 19 and 20 which cites that, “the stud engagement portion is connected to the support portion only by the connection portion and the connection piece.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 6206330 to Oi et al.

The patent to Oi et al. discloses a pipe fastener having a base portion (1, 2), a pipe holding portion (1), a stud engagement portion (2) disposed in the base (1, 2), a support portion (6) integrally joined to the base portion outside of the stud engagement portion, having a pair of opposed side walls (2A) and a pair of opposed columns (12) disposed between the side walls (2A), a connection portion (4) integrally joining the support portion to the stud engagement portion adjacent the stud engagement aperture, the connection portion (4) integrally connecting an outer circumference of the stud engagement portion (2) adjacent to the inlet and a plurality of engagement pawls (37) integrally joined to the stud engagement portion, a connection piece (9) integrally joining the support portion of the stud engagement portion, the connection piece located at a wall of the stud engagement portion opposed to the stud receiving aperture, wherein the stud engagement portion is connected to the support portion only by the connection portion and the connection piece and a stopper (2B) for limiting displacement of the support portion with respect to the stud engagement portion, having a pair of protrusions (8) which are in the stud engagement portion and engage a pair of apertures in the support portion.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6206330 to Oi et al. as applied to claim 13 above, and in view of United States Patent No. 6585196 to Nakanishi.

Oi et al. discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show wherein the pawls are offset from each other in a height direction of the fastener.

Nakanishi shows a pipe holder in which has a stud engaging portion (10) with offset pawls (13) in a height direction of the fastener, used for further gripping of the fastener or stud. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Nakanishi to have offset the pawls in order to further grip the fastener.

Allowable Subject Matter

Claims 5-12 are allowed.

The reason is that the prior art does not show a pipe fastener having a base, a pipe holding portion connected integrally to the base portion, a stud engagement portion provided at the base portion a support portion integrally formed with the base portion and outside of the stud engagement portion a connection portion disposed between the support portion and the stud engagement portion formed to connect the entire outer circumference of the stud engagement portion and is adjacent to the inlet of the stud

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and is the only connection between the support portion and the stud engagement portion, and a connection piece provided between the support portion and the stud engagement portion.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various pipe fasteners

6708933 to Girodo

6708931 to Miura

6450459 to Nakanishi

6290201 to Kanie et al.

6070836 to Battie et al.

6036145 to Calabrese et al.

5954300 to Sturies et al.

5588683 to Schliessner

5170984 to Ruckwardt

5033701 to Kraus

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached

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(M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS
Amy J. Sterling
9/16/04



ANITA KING
PRIMARY EXAMINER